

REFERENCE TITLE: child passenger restraint systems

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HB 2178

Introduced by
Representatives Downing, Chase, Landrum Taylor

AN ACT

AMENDING SECTION 28-907, ARIZONA REVISED STATUTES; RELATING TO CHILD PASSENGER RESTRAINT SYSTEMS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 28-907, Arizona Revised Statutes, is amended to
3 read:

4 28-907. Child passenger restraint system: civil penalty;
5 exemptions: notice: child passenger restraint fund:
6 definitions

7 A. Except as provided in subsection G of this section, a person shall
8 not operate a motor vehicle on the highways in this state when transporting a
9 child who is under ~~five~~ **EIGHT** years of age unless that child is properly
10 secured in a child passenger restraint system.

11 B. The department shall adopt standards in accordance with 49 Code of
12 Federal Regulations section 571.213 for the performance, design and
13 installation of child passenger restraint systems for use in motor vehicles
14 as prescribed in this section.

15 C. **EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION**, a person who
16 violates this section is subject to a civil penalty of ~~fifty~~ **NINETY** dollars.
~~, except that a civil penalty shall not be imposed if the person makes a~~
~~sufficient showing that the motor vehicle has been subsequently equipped with~~
~~a child passenger restraint system that meets the standards adopted pursuant~~
~~to subsection B of this section. A sufficient showing may include a receipt~~
~~mailed to the appropriate court officer that evidences purchase or~~
~~acquisition of a child passenger restraint system.~~ The court imposing and
23 collecting the civil penalty shall deposit, pursuant to sections 35-146 and
24 35-147, the monies, exclusive of any assessments imposed pursuant to sections
25 12-116.01 and 12-116.02, in the child passenger restraint fund. **IF A PERSON**
26 **WHO VIOLATES THIS SECTION COMPLETES THE CHILDREN ARE PRICELESS PASSENGERS**
27 **PROGRAM ADMINISTERED BY THE GOVERNOR'S OFFICE OF HIGHWAY SAFETY, THE COURT**
28 **SHALL NOT IMPOSE A CIVIL PENALTY.**

29 D. If a law enforcement officer stops a vehicle for an apparent
30 violation of this section, the officer shall determine from the driver
31 whether the unrestrained child or children in the vehicle are under ~~five~~
32 **EIGHT** years of age.

33 E. If the information given to the officer indicates that a violation
34 of this section has not been committed, the officer shall not detain the
35 vehicle any further unless some additional violation is involved. The
36 stopping of a vehicle for an apparent or actual violation of this section is
37 not probable cause for the search or seizure of the vehicle unless there is
38 probable cause for another violation of law.

39 F. **UNLESS A VIOLATION OF THIS SECTION LEADS TO THE INJURY OR DEATH OF**
40 **A CHILD**, the requirements of this section or evidence of a violation of this
41 section are not admissible as evidence in a judicial proceeding except in a
42 judicial proceeding for a violation of this section.

43 G. This section does not apply to any of the following:

44 1. A person who operates a motor vehicle that was originally
45 manufactured without passenger restraint devices.

1 2. A person who operates a motor vehicle that is also a recreational
2 vehicle as defined in section 41-2142.

3 3. A person who operates a commercial motor vehicle and who holds a
4 current commercial driver license issued pursuant to chapter 8 of this title.

5 4. A person who must transport a child in an emergency to obtain
6 necessary medical care.

7 5. A person who transports more than one child under ~~five~~ EIGHT years
8 of age in a motor vehicle that because of the restricted size of the
9 passenger area does not provide sufficient area for the required number of
10 child passenger restraint devices, if both of the following conditions are
11 met:

12 (a) At least one child is restrained as required by this section.
13 (b) The person has secured as many of the other children in child
14 passenger restraint devices pursuant to this section as is reasonable given
15 the restricted size of the passenger area and the number of passengers being
16 transported in the motor vehicle.

17 H. Before the release of any newly born child from a hospital, the
18 hospital in conjunction with the attending physician shall provide the
19 parents of the child with a copy of this section and information with regard
20 to the availability of loaner or rental programs for child passenger
21 restraint devices that may be available in the community where the child is
22 born.

23 I. A child passenger restraint fund is established. The fund consists
24 of all civil penalties deposited pursuant to this section and any monies
25 donated by the public. The department of economic security shall administer
26 the fund.

27 J. The department of economic security shall purchase child passenger
28 restraint systems that meet the requirements of this section from monies
29 deposited in the fund. If a responsible agency requests child passenger
30 restraint systems and if they are available, the department of economic
31 security shall distribute child passenger restraint systems to the requesting
32 responsible agency.

33 K. On the application of a person to a responsible agency on a finding
34 by the responsible agency to which the application was made that the
35 applicant is unable to acquire a child passenger restraint system because the
36 person is indigent and subject to availability, the responsible agency shall
37 loan the applicant a child passenger restraint system at no charge for as
38 long as the applicant has a need to transport a child who is subject to this
39 section.

40 L. Monies in the child passenger restraint fund shall not exceed
41 twenty thousand dollars. All monies collected over the twenty thousand
42 dollar limit shall be deposited in the Arizona highway user revenue fund
43 established by section 28-6533.

1 M. For the purposes of this section:

2 1. "Indigent" means a person who is defined as an eligible person
3 pursuant to section 36-2901.01.

4 2. "Responsible agency" means a licensed hospital, a public or private
5 agency providing shelter services to victims of domestic violence, a public
6 or private agency providing shelter services to homeless families or a health
7 clinic.